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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,481	08/15/2001	Harold C. Schloss	99P1016US01	3809

36802 7590 08/11/2005

PACESETTER, INC.
15900 VALLEY VIEW COURT
SYLMAR, CA 91392-9221

EXAMINER

BOCKELMAN, MARK

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/931,481

Applicant(s)

SCHLOSS ET AL.

Examiner

Mark W. Bockelman

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28, 30-33 and 35-42 is/are pending in the application.
- 4a) Of the above claim(s) 15-28 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37 is/are allowed.
- 6) ☒ Claim(s) 30-33, 35, 36 and 38-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Objections

Claim 35 is objected to because of the following informalities: at line 5 "atrial pulse a delay time" appears to be grammatically incorrect. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30-33, 35-36, 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levine et al. USPN 6,058,328 in view of applicant's admitted prior art on page 2, Liu et al, Mintereggi et al, Cecchi et al.. Levine teaches the use of preventive overdrive pacing to preempt tachycardia atrial fibrillation. Applicant differs in the detection of a p wave disturbance in the form of a prolonged p- wave. Applicant acknowledges that P- wave duration was known to be indication of impending atrial fibrillation. To have applied the preemptive methods of Levine to the pre- arrhythmia detection method of the stated prior art to prevent atrial fibrillation would have been obvious. To have use near field and far field sensors would have been conventional P- wave detection devices for measuring p-wave durations

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Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levine et al. USPN 6,058,328 in view of applicant's admitted prior art on page 2, Stafford et al. Levine teaches the use of preventive overdrive pacing to preempt tachycardia atrial fibrillation. Applicant differs in the analysis of spectral energy distribution to indicate a conduction disturbance. Applicant acknowledges that variations in spectral energy distribution are an indication of impending atrial fibrillation. To have applied the preemptive methods of Levine to the pre- arrhythmia detection method of the stated prior art to prevent atrial fibrillation would have been obvious.

Allowable Subject Matter

Claim 37 is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark W. Bockelman whose telephone number is (571) 272-4941. The examiner can normally be reached on Monday - Friday 10:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272 -6996. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MWB

August 8, 2005


MARK BOCKELMAN
PRIMARY EXAMINER